

In Re: Times Oil Corporation]
 Complaint against Duke Power Co.]

COMPLAINT

SC PUBLIC SERVICE
 COMMISSION
 2006 SEP 12 AM 9:04

RECEIVED

Now comes Times Oil Corporation [Times] and presents its formal complaint against Duke Power Co. [Duke] for its actions in: (1) improperly and unlawfully attempting to charge and collect \$52,993.46 in electric power fees to which it knew it was not entitled; (2) improperly, unlawfully, knowingly and unilaterally assessing and billing Times \$16,500.00 in electric power fees to which it is not entitled and threatening to cease providing power to Times if the monthly pro rata portion of said \$16,500.00 was not paid.

THE FACTS

In October of 1998 Times purchased a convenience store located at 1010 Hwy. 321 Bypass in York South Carolina. This Cstore is known as Times' #36. At the time of this purchase, it notified Duke that it was the new owner and to send the power bills to it at its home office in Lincolnton, NC. Times owns a number of Cstores and other facilities all of which have power service from Duke. Times does not audit or compare its power bills, but relies on Duke's billings to be accurate. As a matter of course Times groups all power bills it received from Duke together each month and pays Duke with one check.

On January 12, 2006, a Mr. Jerry L. Williams of Duke called Times and said that it owed Duke \$103,408.37 in back power charges over the last 72 months for its # 36 CStore; however, he said, South Carolina law only allowed them to collect for the past 36 months of these charges in the amount of \$52,003.46. He said Times would have to pay this immediately in one payment or over the next 36 months in one payment of \$1,472.06 and 35 of \$1,472.04. Mr. Williams explained that these back power charges were due to a mistake that Duke had made in what he called a "billing Multiplier". He followed up this telephone call with an email on January 13, 2006 confirming Duke's demands. A copy of this email is attached at Tab # 1. Mr. Williams also faxed to Times figures showing the Actual KW hours used by Times' Cstore # 36 over the 72 month period during which, during the 72 month period in question, averaged 24.28 KW per month. [See Tab # 2] Times responded to Duke on January 18, 2006 saying that it had not contributed to the mistake, if there was one, knew nothing about it and did not feel that Duke's demands were justified.

In response, on February 8, 2006, Duke, saying that since Times was such a good customer with multiple accounts, offered to settle the back charges for \$16,500.00. In doing so, Duke admitted that it had no evidence or reason to believe that Times had wilfully mislead Duke, tampered with the meter or had knowledge that it was being undercharged, a fact which Duke later confirmed by letter on March 16, 2005. Duke explained that the \$16,500.00 charge was for the immediate past 12 months before the mistake was discovered and that the South Carolina Regulations § 103-340(6) allowed them to recover this amount. Times replied that it was not certain whether a "meter billing constant", which Duke had told it was the reason for the alleged undercharges, was a human or machine error as defined by the Regulation allowing them to recover some of the undercharges. Moreover, assuming that the

undercharging was the result of an error covered by the Regulations, Duke's own records show that Cstore # 36's demand during the interval in question was less than 50KW; therefore, it would only be entitled to recover for 6 months of undercharges, or \$8,250.00. [See Tab # 3]

Duke did not reply to Times letter' questioning what a "meter billing constant" was and questioning the \$16,500.00 claim for back power charges; but instead unilaterally, without notice added \$1,373.03 to Times' February bill knowing all the time that the amount was in dispute. Duke later notified Times, on March 16, 2006 that it had done so. Duke was still unable to say with any certainty that the cause of the alleged undercharges was by human or machine error. It could only assert, "Our computer records show that the bill constant of 40 was noted in a 'remarks' field for service location, but was not entered as '40' in the field used for billing." [See Tab # 4]. Times responded that it objected to the unilateral billing of a disputed claim and again informed Duke that its demand for power during the questioned period was less than 50KW and offered to pay Duke for the 6 months allowed by the Regulations. Times suggested that it was not agreeable with Duke that the parties submit the matter to a member of the Commission's legal staff agreeing to have the legal staff arbitrate the matter.

On April 7, 2006, Duke responded that it interpreted the Regulation as providing that if Cstore #36 used as much as 50KW any month during the period in question that it was entitled to recover 12 months in undercharges irrespective of the Regulation's language "If the interval during which a consumer having a demand of less than 50 KW can be determined, then the electrical utility may collect...up to a maximum of period of six months.". Duke gave no response to Times' suggestion that the parties submit the matter to the Commission's legal staff. In this letter, Duke also threatened to cut off the power to the Cstore if its demands were not met. Times responded again requesting that the parties submit the matter to the Commission's legal staff for arbitration and Duke has not responded as of the date of this complaint. [See Tab # 5]

TIMES POSITION

1. Duke improperly and unlawfully attempting to charge and collect \$52,993.46 in electric power fees to which it knew it was not entitled.

Duke knew on January 12, 2006 at the time it made its \$52,993.46 demand on Times that it would be entitled this amount only if its alleged undercharges were the result of Times having wilfully misled Duke as a result of fraud such as tampering with or bypassing a meter or it was evident that Times had knowledge it was being undercharged. Yet, it made this demand of Times knowing that it had no evidence of any such wrongdoing or knowledge of the alleged undercharges and could only say that for some unexplained reason the correct billing information was reflected at one place in its computer and not at another place.

It seems clear that Duke made the conscious decision to approach Times with its \$52,993.46 figure in an attempt to see if Times were gullible enough to pay it, realizing that it could later claim a smaller sum under the Regulations. This conduct should not be condoned and should be evidence of Duke's intentions to try and cover its own incompetence through a strained interpretation of the Commission's Regulations. We feel this to be an unfair and deceptive trade practice.

2. Duke improperly, unlawfully, knowingly and unilaterally assessed and billed Times \$16,500.00 in electric power fees to which it is not entitled, and threatened to cease providing power to Times if the assessment was not paid using such coercion to enforce its will rather than submitting the known dispute to the Commission for review and opinion.

First, Duke has not shown that the alleged undercharges were the result of "human or machine error". The only thing Duke can say is... "that the bill constant of 40 was noted in a 'remarks' field for the service location, but was not correctly entered as '40' in the field used for billing." [See Tab # 4]. Duke is unable to say why or how this was done. They cannot say it was human error or machine error, they don't know. It could just as well have been done by direct order from a supervisor or other deliberate act as through an erroneous key stroke on a computer. The Regulation does not allow a simple "but for" test, it requires more than a showing that there was an incorrect entry in a billing field. Duke should be required to show what caused the alleged error, prove that it was through no fault of their own. Simply saying that there is a wrong figure shown on some field in a computer should not be sufficient proof as to allow Duke to invoke such a draconian remedy against its customers; a remedy not allowed by South Carolina law to any other business which makes a unilateral, negligent mistake in billing its customers.

Secondly, assuming that the Commission is of the opinion that the Regulation allows Duke to recover anything, Duke's position that because it has a 60KW contract if at any time during the 72 month period in question Times' CStore # 36 used 50 or more KW it is entitled to recover 12 months of alleged undercharges is simply not what the Regulation provides. § 130-340(6)(a) very clearly says that measure is the demand over the period in question. In order to be allowed to recover 12 months, the demand used by the customer over the period in question must be constantly over 50KW. In this case the period in question was 72 months, the KW used during that period were 1748.4, which is an average of 24.28 KW per month. [See Tab # 2] This being the case, Duke would be entitled to recover only for 4/27/05 through 9/27/05, which according to Duke's figures would be \$8,402.62. [See Schedule at Tab 4].

CONCLUSION

If § 103-340(6) is to be interpreted as affording power companies the right to recover under billed services from its customers caused by its own negligence merely upon a showing by the company that it should have charged more; then we submit the regulation should be changed. South Carolina law does not allow any other business to recover undercharges from its customers because of their own negligence and we can see no reason why such a right should be granted to a power company.

We leave to the Commission's good judgment what if anything should be done with regard to Dukes unfair and deceptive business practice of trying to collect over \$50,000.00 from Times knowing that it had no reason or evidence to support their position.

If the Commission is of the opinion that under the regulations Duke is entitled to recover any back undercharges from Times, it should only be for the last 6 months as clearly provided by the Regulation.

Times agrees that the Commission may hear and decide the issues raised in this complaint without public hearing or oral arguments and is content to have the Commission conduct such proceedings and considerations of this complaint as it deems appropriate and render its decision based upon the documents submitted.

Respectfully submitted, this the 8 day of August, 2006

Times Oil Corporation

By: David Boyd
David Boyd, President



Cash Remittance/PB01E
P.O. Box 1046
Charlotte NC 28201-1046

COPY

AUGUST 04, 2006

00000002 01 SP 0.390 B 00001 01 D517A

|||||

TIMES OIL #36

PO BOX 795

LINCOLNTON, NC 28093-0795

Subject: **DISCONNECTION NOTICE - S.C. NON-RESIDENTIAL**
Account Number 0003195130 FOR 1010 HWY 321 BYP

Dear TIMES OIL #36:

Our records indicate your electric service account is past due. To prevent disconnection of this service, please review the following information and take appropriate action immediately. The amount of \$15410.86 must be received by 5:00 p.m. on AUGUST 18, 2006 (including payments left in our drop box) to avoid disconnection of service. If payment is made after this time (including payments left in our drop box), the Total Amount Due of \$15410.86 must be paid. Your last payment of \$1717.18 was received on JULY 17, 2006.

You may find it convenient to pay the past due bill with a major credit card or by automated check processing. For your convenience, we accept MasterCard, Visa, Discover and automated checks (through a third party vendor for a nominal fee). If these payment options meet your needs, simply call us with your credit card or check information.

If your service is disconnected, you will be required to pay the total amount due of \$15410.86 and a reconnect fee of \$15.00 to restore your service. A deposit also may be required to either restore or maintain service if your service is disconnected or if your account continues to carry a past due balance. If you have a dispute about your bill that you are unable to resolve by calling Duke Energy, you may call the Public Service Commission of South Carolina at 1-800-922-1531.

Duke Energy provides information concerning the status of your electric account to national credit reporting agencies each month. Timely payment of your electric bills will help improve or preserve your credit rating.

If your payment has been made, please disregard this notice. You may call our Automated Billing Information System at (803) 684-9939 to verify your payment has been received or to make a payment. We are available 24 hours every day to assist you.

Para interpretacion de esta noticia muy importante de su servicio electrico, por favor llame a la compania de Duke Energy y pida un representante que habla espanol.

Sincerely,

J.T. Owen, Jr.
Credit Department



David Boyd

From: "Jerry L Williams" <jlwilli1@duke-energy.com>
To: <david@timesoil.com>
Cc: "Nigel N Potts" <nnpotts@duke-energy.com>; "Richard D Belt" <rdbelt@duke-energy.com>
Sent: Friday, January 13, 2006 9:40 AM
Attach: Times Oil #36 Bill Recalc.xls
Subject: Times Oil #36, York, SC

Hello again Mr. Boyd;

Here's the information regarding Times Oil #36 that we discussed by telephone on Thursday, January 12, 2006, in which you requested the sequence of events and the bill re-calculation spreadsheet in hard copy form; I will fax the remaining document (billing history) to you immediately.

- The meter was set with a billing constant (multiplier) of 1 and the account name changed to Times Oil #36 on October 19, 1998;
- A Field Work Order was issued on September 26, 2005 due to irregularities in meter readings;
- On September 27, 2005, the meter was changed due to a display malfunction; The current transformers installed at the metering location indicated that meter should have a billing constant (multiplier) of 40;
- On September 28, 2005, the meter change, order with the new billing constant, was entered into the billing system;
- The account's billing data was corrected on September 29, 2005;
- Due to the NC and SC statute of limitations set at 36 months, we can only re-bill for that period;
- The bills were re-calculated and the difference between the new amount and the amount actually paid is \$52,993.46; The amount beyond the 36 month period is \$50,414.91;
- There are two options for payment: Since the period covers 36 months, the first option is to spread the amount over the next 36 months (plus the regular monthly bill); This option would be 35 payments of \$1472.04 and 1 payment of \$1472.06; The second option would be to pay the \$52,993.46 in one payment.

(See attached file: Times Oil #36 Bill Recalc.xls)

Please call me with any questions at (800) 723-9681.

Thank you,

Jerry L. Williams
Services Account Manager
Customer Account Services
1-800-723-9681

**Duke Power
Company**

Fax

MR. DAVID BOYD
To: TIMES OIL COMPANY **From:** (800) 723-9681
JERRY L. WILLIAMS
Fax: (704) 735-1488 **Pages:** 3 (INCLUDING THIS PAGE)
Phone: (704) 735-3092 EXT. 25 **Date:** 01/13/06
Re: TIMES OIL #36 **CC:**

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments

→ BILLING HISTORY (01/2003 - 01/2006)

Account Summary Report for 3195130

TIMES OIL #36

Account # 3195130

01/26/03 Through 01/20/06

1010 HWY 321 BYP YORK, SC 29745 EUC Code: 5900

Rate Schedule: G Rate Class: Contract KW: 60 Meter Number: 028406310

Bill Year/ Month	# Days	Actual Demand	Billing Demand	KWH	Energy Dollars	IS/SG Credits	Extr Facilities	Muni Fees	Late Payment Charge	Sales Tax	Total Dollars	Cost per KWH	Hours Use
2003/01	33	1	30	703	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1272	703
2003/02	29	1	30	673	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1328	673
2003/03	28	1	30	623	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1435	623
2003/04	32	1	30	760	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1176	760
2003/05	30	1	30	700	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1277	700
2003/06	29	1	30	693	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1290	693
2003/07	33	2	30	819	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1092	410
2003/08	30	2	30	769	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1163	385
2003/09	32	1	30	790	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1132	790
2003/10	28	1	30	664	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1346	664
2003/11	29	1	30	671	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1332	671
2003/12	31	1	30	709	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1261	709
2004/01	34	1	30	783	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1142	783
2004/02	27	1	30	615	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1454	615
2004/03	30	1	30	632	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1415	632
2004/04	32	1	30	674	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1326	674
2004/05	29	0	0	635	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1408	N/A
2004/06	30	0	0	722	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1228	N/A
2004/07	34	0	0	821	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1089	N/A
2004/08	29	0	0	706	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1266	N/A
2004/09	33	0	0	789	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1133	N/A
2004/10	28	0	0	610	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1466	N/A
2004/11	28	0	0	588	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1520	N/A
2004/12	34	0	0	695	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1286	N/A
2005/01	30	0	0	642	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1383	N/A
2005/02	28	0	0	582	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1510	N/A
2005/03	32	0	0	649	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1378	N/A
2005/04	30	0	0	610	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1466	N/A
2005/05	29	0	0	583	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1533	N/A
2005/06	32	0	0	668	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1336	N/A
2005/07	31	0	0	631	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1417	N/A

Account Summary Report for 3195130

TIMES OIL #36

Account # 3195130

01/2003 Through 01/2006

1010 HWY 321 BYP YORK, SC 29745 EUC Code: 5900

Rate Schedule: G

Rate Class:

Contract KW: 60

Meter Number: 028406310

Bill Year/ Month	# Days	Actual Demand	Billing Demand	KWH	Energy/ Dollars	IS/SC Credits	Extra Facilities	Mun. Fees	Rate Payment Charge	Sales Tax	Total Dollars *	Cost per KWH **	Hours Use
2005/08	33	0	0	803	\$89.40	\$0.00	\$0.00	\$0.00	\$0.00	\$5.36	\$94.76	\$0.1113	N/A
2005/09	31	50	50	640	\$134.56	\$0.00	\$0.00	\$0.00	\$0.00	\$8.07	\$142.63	\$0.2103	13
2005/10	29	49	50	28,520	\$1,513.87	\$0.00	\$0.00	\$0.00	\$0.00	\$90.83	\$1,604.70	\$0.0571	541
2005/11	33	51	50	25,440	\$1,467.90	\$0.00	\$0.00	\$0.00	\$0.00	\$88.07	\$1,555.97	\$0.0577	499
2005/12	30	47	50	24,720	\$1,437.25	\$0.00	\$0.00	\$0.00	\$0.00	\$86.24	\$1,523.49	\$0.0581	526
	1100	51	50	99,343	\$7,414.38	\$0.00	\$0.00	\$0.00	\$0.00	\$444.73	\$7,859.11	\$0.1273	335

* Total Dollars may include charges not shown in grid

** Cost per KWH is based on Energy Dollars only



526 South Church Street
Charlotte, NC 28202

Mailing Address:
EC2ZA / P.O. Box 1006
Charlotte, NC 28201-1006

800.723.9681

800.510.7347 fax

February 8, 2006

Mr. David M. Boyd
Times Oil Corporation
1500 East Main Street
Lincolnton, NC 28093

Dear Mr. Boyd:

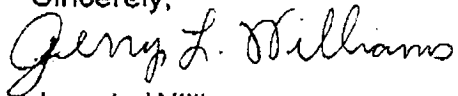
Upon receipt of your letter of January 18, 2006 Duke Power management reviewed the billing adjustment for "Times Oil #36". Duke Power's investigation indicates that this account was set up in 1998 with a 60 KW contract, but due to an incorrect multiplier, the account has only been billed each month for 1/40th of the electricity used. Since approximately 1998, this account has been underbilled.

Duke Power's investigation indicates that Time Oil has numerous other stores of a similar size and similar usage characteristics which should have indicated to you that the account was being underbilled. Additionally, if you will review the bills, you will note that the demand portion of the bill was calculated at half contract and a minimum bill was rendered each month, i.e. there was no change in the amount as usage varied. A minimum bill often alerts non residential customers to the possibility of a billing error. The rules and regulations of the Public Service Commission of South Carolina provide that if there is evidence that the customer has knowledge of being undercharged without notifying the utility, then the utility may recover the deficient amount for the entire period up to the statute of limitations which is 3 years.

Duke Power believes there is some evidence that Times Oil should have recognized the undercharge for the reasons outlined above. However, upon further review, Duke Power is willing to give you the benefit of the doubt recognizing that you have multiple accounts, and charges vary somewhat on those accounts. Therefore, Duke Power offers to reduce the billing adjustment amount from \$52,993.46 to \$16,500 ("includes sales tax") which represents the underbilled amount for the twelve months prior to discovery of the wrong multiplier on the meter serving your account. Additionally, we are sending you the corrected bills for the period November to January since the multiplier was corrected. Duke Power has agreed to use the Public Service Commission's rules 103-340 6a which outlines the adjustment procedure for inadvertent under / overcharges rather than 103-340 4 which would allow Duke Power to recover for 3 years.

If you have any questions, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Jerry L. Williams".

Jerry L. Williams
Customer Account Services
Duke Power Company

cc: File



526 South Church Street
Charlotte, NC 28202

Mailing Address:
EC2ZA / P.O. Box 1006
Charlotte, NC 28201-1006

800.594.6687

800.510.7347 fax

2/27/06 B12L

\$1375.03

March 16, 2006

Mr. David M. Boyd, President
Times Oil Corporation
P.O. Box 795
Lincolnton, NC 28093

Dear Mr. Boyd:

Thanks for your letter of March 1, 2006. Let me attempt to address the points in your letter in more detail.

While Duke Power has no evidence that you willfully mislead Duke Power, the Public Service Commission's rule provides for billing adjustments when "it is evident that a customer had knowledge of being undercharged without notifying the electrical utility." Since you have comparably sized and equipped facilities with bills substantially higher than those you received for Store #36, it should have been evident to you that either this store was being under billed or other stores were being over billed, yet the low bills were not questioned. Duke Power records show that you have similarly sized facilities in a number of other locations including Belmont, Hickory, Fort Mill and Charlotte with load and energy use comparable to load, once adjusted, at the York location.

As the investigation shows, you were only being billed for 1/40th of the energy you used for more than 7 years. As I have previously explained, we are not seeking to adjust the bill pursuant to the Public Service Commission's Rule 103-340 4. We regret that you do not consider this a "concession" since we believe you had some opportunity to recognize the significant difference in the bills for the York store and others, and considering that you have been under billed more than \$100,000 for the entire period.

The Public Service Commission's Rules 103-340 6 provides the method of adjustment when the customer has been undercharged due to "human or machine error". The vast majority of billing meters on the Duke Power system use a multiplier of "1". Duke Power's investigation shows that the bill constant (multiplier) was set up in the billing system incorrectly as "1". The bill constant should have been set up in the billing system as "40" because the particular type of meter serving your facility had current transformers and the register shows only a percentage of the usage. The monthly readings, after entry into the billing system, must be multiplied by the correct multiplier to accurately charge for the kilowatt demand and kilowatt hours used. The multiplier is determined by the representative who installs the meter and is recorded on an order which is returned to the office for entry into the billing system. Our computer records show that the bill constant of 40 was noted in a "remarks" field for the service location, but was not correctly entered as "40" in the field used for billing. We are confident that this was an inadvertent human error in entering the data, it is covered by the rule, and

there is absolutely no evidence of a deliberate act to bill you for less than you actually used.

With respect to the demand level, our records show that your contract for service is 60 KW. Contracts are sized based on the maximum load requirements, not average. Our records also show that the actual load, when correcting for the multiplier error, has exceeded 50 KW on many occasions. We are unable to determine how you arrived at 24.28 KW, but it clearly does not reflect your actual load.

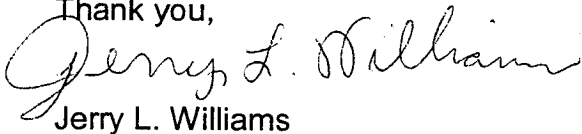
The billing adjustment was determined by recalculating the bills on the same rate schedule as originally billed but multiplying the kwh readings by "40" instead of "1". The Billing Demand is based on the highest actual demand during the last 12 months. The demand meter in place previously registered readings ranging from 1.25 to 1.5 (50 KW – 60 KW when applying the correct multiplier) and has registered 50 KW since the correction. Although Duke Power could have used 50 KW or more to calculate the adjustment, we only used a minimum of 30 KW which results in a lower adjustment. For the billing periods of the adjustment, October 2004 – September 2005, you were actually billed \$ 1,184.99 but should have been billed at least \$17,685.30. The difference of \$16,500.31 is the adjusted amount. Copies of the rate Schedule G used in the calculation are attached – please note the effective dates of each.

We understand your concerns about this adjustment which is being billed to you in 12 installments; however, we would remind you that Duke Power is not asking you to pay for anything you did not use. Further the billing adjustment of \$ 16,500.31 is less than 15% of the amount you have been under billed.

If you have any further questions, please contact Joseph Gentry at (704) 382-5123, as I am retiring from Duke Energy. Please address all mailed correspondence to:

Joseph G. Gentry
EC2ZA / P.O. Box 1006
Charlotte, NC 28201-1006

Thank you,



Jerry L. Williams
Customer Account Services
Duke Power Company

cc: Barbara Yarbrough
Elizabeth White
Nigel Potts
Joseph Gentry
Jerry Williams

SCHEDULE G (SC)
GENERAL SERVICEAVAILABILITY (South Carolina Only)

Available to the individual customer.

Service under this Schedule shall be used solely by the contracting Customer in a single enterprise, located entirely on a single, contiguous premises.

This Schedule is not available to the individual customer who qualifies for a residential or industrial schedule nor for auxiliary or breakdown service. Power delivered under this schedule shall not be used for resale or exchange or in parallel with other electric power, or as a substitute for power contracted for or which may be contracted for, under any other schedule of the Company, except at the option of the Company, under special terms and conditions expressed in writing in the contract with the Customer.

The obligations of the Company in regard to supplying power are dependent upon its securing and retaining all necessary rights-of-way, privileges, franchises and permits, for the delivery of such power. The Company shall not be liable to any customer or applicant for power in the event it is delayed in, or is prevented from, furnishing the power by its failure to secure and retain such rights-of-way, rights, privileges, franchises and permits.

TYPE OF SERVICE

The Company will furnish 60 Hertz service through one meter, at one delivery point, at one of the following approximate voltages, where available:

Single-phase, 120/240 volts; or

3-phase, 208Y/120 volts, 460Y/265 volts, 480Y/277 volts; or

3-phase, 3-wire, 240, 460, 480, 575, or 2300 volts; or

3-phase, 4160Y/2400, 12470Y/7200, or 24940Y/14400 volts; or

3-phase voltages other than those listed above may be available at the Company's option if the size of the Customer's contract warrants a substation solely to serve that Customer, and if the Customer furnishes suitable outdoor space on the premises to accommodate a ground-type transformer installation, or substation, or a transformer vault built in accordance with the Company's specifications.

The type of service supplied will depend upon the voltage available. Prospective customers should determine the available voltage by contacting the nearest office of the Company before purchasing equipment.

Motors of less than 5 H.P. may be single-phase. All motors of more than 5 H.P. must be equipped with starting compensators. The Company reserves the right, when in its opinion the installation would not be detrimental to the service of the Company, to permit other types of motors.

RATE:

I.	Basic Facilities Charge	\$6.85
II.	Demand Charge	
	For the first 30 KW of Billing Demand per month	No Charge
	For all over 30 KW of Billing Demand per month	\$3.28 per KW
II.	Energy Charge	
	<u>For the First 125 kWh per KW Billing Demand per Month:</u>	
	For the first 3,000 kWh per month	9.7053 cents per kWh
	For the next 87,000 kWh per month	4.8013 cents per kWh
	For all over 90,000 kWh per month	3.0355 cents per kWh
	<u>For the Next 275 kWh per KW Billing Demand per Month:</u>	
	For the first 6,000 kWh per month	4.8719 cents per kWh
	For the next 95,000 kWh per month	4.8099 cents per kWh
	For the next 39,000 kWh per month	4.1814 cents per kWh
	For the next 60,000 kWh per month	4.1697 cents per kWh
	For all over 200,000 kWh per month	4.1064 cents per kWh
	<u>For all Over 400 kWh per KW Billing Demand per Month:</u>	
	For the first 1,000,000 kWh per month	3.9983 cents per kWh
	For all over 1,000,000 kWh per month	3.7377 cents per kWh

ADJUSTMENT FOR FUEL COSTS

The Company's Adjustment for Fuel Costs is incorporated as a part of, and will apply to all service supplied under, this Schedule.

Schedule G (SC) (continued)

DEFINITION OF "MONTH"

The term "month" as used in this Schedule means the period intervening between meter readings for the purposes of monthly billing. Readings are taken once a month at intervals of approximately thirty (30) days.

DETERMINATION OF BILLING DEMAND

The Billing Demand each month shall be the largest of the following:

1. The maximum integrated thirty-minute demand in the previous 12 months including the month for which the bill is rendered.
2. Fifty percent (50%) of the Contract Demand.
3. 30 kilowatts (KW)

The Company will install a permanent demand meter when the monthly usage of the Customer equals or exceeds 3,000 kWh per month, or when tests indicate a demand of 15 KW or more. The Company may, at its option, install a demand meter for any customer served under this schedule.

MINIMUM BILL

The minimum bill shall be the bill calculated on the Rate above including the Basic Facilities Charge, Demand Charge and Energy Charge, but the bill shall not be less than the amount determined as shown below according to the type of minimum selected by the Company:

Monthly

\$1.49 per KW per month of Contract Demand

If the Customer's measured demand exceeds the Contract Demand, the Company may, at any time, establish the minimum based on the maximum integrated demand in the previous 12 months including the month for which the bill is rendered, instead of the Contract Demand.

Annual

\$28.40 per KW per year of Contract Demand

The Company may choose this option when the Customer's service is seasonal or erratic, or it may offer the Customer a monthly minimum option.

Unless otherwise specified in the contract, the billing procedure for annual minimums will be as follows:

For each month of the contract year when energy is used, a monthly bill will be calculated on the Rate above. For each month of the contract year when no energy is used, no monthly amount will be billed. The bill for the last month of the contract year will be determined as follows:

- If the total of the charges for 12 months exceeds the annual minimum, the last bill of the contract year will include only the charges for that month.
- If the total of the charges for 12 months is less than the annual minimum, the last bill of the contract year will include an amount necessary to satisfy the annual minimum.

POWER FACTOR CORRECTION

When the average monthly power factor of the Customer's power requirements is less than 85 percent, the Company may correct the integrated demand in kilowatts for that month by multiplying by 85 percent and dividing by the average power factor in percent for that month.

SALES TAX AND MUNICIPAL FEES

Any applicable sales tax, municipal service agreement fee, business license fee or other fee assessed by or remitted to a state or local governmental authority will be added to the charges determined above.

PAYMENT

Bills under the Schedule are due and payable on the date of the bill at the office of the Company. Bills are past due and delinquent on the fifteenth day after the date of the bill. If any bill is not so paid, the Company has the right to suspend service. In addition, all bills not paid by the twenty-fifth day after the date of the bill shall be subject to a one and one-half percent (1 1/2%) late payment charge on the unpaid amount. This late payment charge shall be rendered on the following month's bill and it shall become part of and be due and payable with the bill on which it is rendered.

CONTRACT PERIOD

Each customer shall enter into a contract to purchase electricity from the Company for a minimum original term of one (1) year, and thereafter from year to year upon the condition that either party can terminate the contract at the end of the original term, or at any time thereafter by giving at least sixty (60) days' previous notice of such termination in writing; but the Company may require a contract for a longer original term of years where the requirement is justified by the circumstances.

South Carolina Twenty-Second Revised Leaf No. 20

Adjustment for Fuel Costs

Effective for bills on and after June 1, 2004

PSCSC Docket No. 2004-003-E

Interim Rate Reduction Rider

Expired for bills on and after October 1, 2004

PSCSC Docket No. 2003-271-E

[illegible]



Duke Power

526 South Church Street

P.O. Box 1006

Charlotte, NC 28201-1006

April 7, 2006

Mr. David M. Boyd, President
Times Oil Corporation
P.O. Box 795
Lincolnton, NC 28093

Re: Account 3195130
Times Oil #36

Dear Mr. Boyd:

Thanks for your letter of March 23, 2006.

In review of the bill adjustment method and estimate, I found that Mr. Williams has followed the rules and regulations and has provided several favorable concessions.

I understand your disagreement with using a peak demand vs. an average demand but the electrical system that serves you must be designed to meet your peak loads and this billing component reflects this need. Therefore since your actual load exceeded 50 KW on many occasions, it is appropriate that this billing adjustment reflects a 12 month period. Again in this case we are following the Commission's rules and regulations in a non-discriminatory basis.

Based on this, the billing adjustment of \$16,500.31 will remain on your bill. We are extending an opportunity for you to pay this amount over a 12 month period with no interest. I should note that if you fail to pay, then our normal delinquency processes will apply. Obviously if your appeal to the Commission results in any change, this will be reflected on your bill.

Thanks for the opportunity to address your questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Gentry', with a long horizontal line extending from the end of the signature.

Joe G. Gentry
Business Services

cc: Barbara Yarbrough
Elizabeth White